

AMENDED IN SENATE JANUARY 11, 2006

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 432

Introduced by Senator Alquist

February 17, 2005

An act to amend ~~Section 54985~~ *Sections 26720.9, 26721, and 26750* of the Government Code, relating to county fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 432, as amended, Alquist. County fees.

Existing law specifically authorizes the county board of supervisors to increase or decrease fees and charges with specified exceptions, such as fees for the performance of services by the sheriff.

This bill would ~~except from that exclusion~~ *increase from \$30 to \$35* sheriffs' fees for serving process or notice, serving, executing, or processing writs or orders to take possession of property, serving a writ of possession of real property on an occupant and putting a person in possession of the premises, and *would increase from \$25 to \$30 the fee for serving an earnings withholding order,* ~~and would provide that these fees may be increased as requested by the sheriff to recover civil process operations costs.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 26720.9 of the Government Code is*
- 2 *amended to read:*
- 3 26720.9. Notwithstanding any other provision of law, the
- 4 amounts set forth in Sections ~~26721~~, 26721.1, 26725, 26728,

1 26734, 26742, and 26743 shall be increased to thirty dollars
2 (\$30) on January 1, 2001.

3 *SEC. 2. Section 26721 of the Government Code is amended to*
4 *read:*

5 26721. Except as provided in this article, the fee for serving
6 or executing any process or notice required by law or the litigants
7 to be served shall be ~~the amount described in Section 26720.9~~
8 *thirty-five dollars (\$35)*, and there shall be no additional fee for
9 substitute service when substitute service is authorized.

10 However, no fee shall be charged for serving an emergency
11 protective order, protective order, or restraining order issued
12 pursuant to ~~Division 10 the Domestic Violence Prevention Act~~
13 *(Division 10 (commencing with Section 6200))* of the Family
14 Code ~~(the Domestic Violence Prevention Act)~~ on a respondent
15 who is in custody.

16 In any case where property has been levied upon and, pursuant
17 to the levy, a copy of the writ of execution and a notice of levy
18 are required by statute to be served either personally or by mail
19 upon the judgment debtor or other person, no fee shall be
20 charged for that service.

21 *SEC. 3. Section 26750 of the Government Code is amended to*
22 *read:*

23 26750. (a) The fee for serving an earnings withholding order
24 under the Wage Garnishment Law, ~~Chapter (Chapter 5~~
25 *(commencing with Section 706.010)* of Division 2 of Title 9 of
26 Part 2 of the Code of Civil ~~Procedure Procedure~~, including but
27 not limited to, the costs of postage or traveling, and for
28 performing all other duties of the levying officer under that law
29 with respect to the levy shall be ~~twenty-five dollars (\$25)~~ *thirty*
30 *dollars (\$30)*.

31 (b) Except as provided in Section 26746, no additional fees,
32 costs, or expenses may be charged by the levying officer for
33 performing the duties under the Wage Garnishment Law, ~~Chapter~~
34 *(Chapter 5 (commencing with Section 706.010)* of Division 2 of
35 Title 9 of Part 2 of the Code of Civil ~~Procedure Procedure~~.

36 ~~SECTION 1. Section 54985 of the Government Code is~~
37 ~~amended to read:~~

38 ~~54985. (a) Notwithstanding any other provision of law that~~
39 ~~prescribes an amount or otherwise limits the amount of a fee or~~
40 ~~charge that may be levied by a county, a county service area, or a~~

~~county waterworks district governed by a county board of supervisors, a county board of supervisors shall have the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied. The fee or charge may reflect the average cost of providing any product or service or enforcing any regulation. Indirect costs that may be reflected in the cost of providing any product or service or the cost of enforcing any regulation shall be limited to those items that are included in the federal Office of Management and Budget Circular A-87 on January 1, 1984.~~

~~(b) If any person disputes whether a fee or charge levied pursuant to subdivision (a) is reasonable, the board of supervisors may request the county auditor to conduct a study and to determine whether the fee or charge is reasonable.~~

~~Nothing in this subdivision shall be construed to mean that the county shall not continue to be subject to fee review procedures required by Article XIII B of the California Constitution.~~

~~(c) This chapter shall not apply to any of the following:~~

~~(1) Any fee charged or collected by a court clerk pursuant to Section 26820.4, 26823, 26824, 26826, 26827, 26827.4, 26830, 72054, 72055, 72056, 72059, 72060, or 72061 of the Government Code or Section 103470 of the Health and Safety Code, and any other fee or charge that may be assessed, charged, collected, or levied pursuant to law for filing judicial documents or for other judicial functions.~~

~~(2) Any fees charged or collected pursuant to Chapter 2 (commencing with Section 6100) of Division 7 of Title 1.~~

~~(3) Any standby or availability assessment or charge.~~

~~(4) Any fee charged or collected by a county agricultural commissioner.~~

~~(5) Any fee charged or collected pursuant to Article 2.1 (commencing with Section 12240) of Chapter 2 of Division 5 of the Business and Professions Code.~~

~~(6) Any fee charged or collected by a county recorder or local registrar for filing, recording, or indexing any document, performing any service, issuing any certificate, or providing a copy of any document pursuant to Section 2103 of the Code of~~

1 ~~Civil Procedure, Section 27361, 27361.1, 27361.2, 27361.3,~~
2 ~~27361.4, 27361.8, 27364, 27365, or 27366 of the Government~~
3 ~~Code, Section 103625 of the Health and Safety Code, or Section~~
4 ~~9525 of the Commercial Code.~~
5 ~~(7) Any fee charged or collected pursuant to Article 7~~
6 ~~(commencing with Section 26720) of Chapter 2 of Part 3 of~~
7 ~~Division 2 of Title 3 of the Government Code, except for fees~~
8 ~~charged or imposed pursuant to Sections 26721, 26722, 26733.5,~~
9 ~~and 26750, which may be increased as requested by the county~~
10 ~~sheriff to recover civil process operations costs.~~

O